DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-8 in the reply filed on October 6, 2009 is acknowledged.

Claim Objections

2. Claims 4 and 8 are objected to because of the following informalities: misspelling of the perennial grass, *Phleum pratense* L. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glicksman et al. (US 3,676,150) and further in view of Clarke et al. (WO 99/57299, applicant submitted art)**.

7. Glicksman et al. discloses bread product (Example III, col. 6, lines 6-55; col. 5, lines 14-21) comprising low calorie flour mixture without gluten (col. 4, lines 67-70;Example II, col. 5, lines 50-67). Glicksman's bread is considered gluten-free food product (col. 3, lines 52-56).

8. Glicksman et al. discloses the flour mixture composition (col. 2, lines 40-44) comprising of alpha-cellulose, corn starch (col. 4, line 9) and hydrophilic gum (col. 4, lines 12-22; col. 5, line 62). Glicksman does not disclose flour mixture composition from seeds of *Phleum pratense* L.

9. However, Clarke et al. discloses a gum composition obtained from seed of *Phleum pratense* (pg. 4, lines 18-21; pg. 5, line 12; pg. 26, Example I, lines 1-18). Clarke et al. discloses *Phleum* gum may serve as a substitute for guar gum or hydroymethylcellulose which would attribute high viscosity and visco-elastic properties in variety application in food (pg. 4, lines 21-24; pg. 51, lines 21-24). Clarke et al. teaches *Phleum* gum composition with improved purity, improved production reliability and reduced production cost (pg. 24, lines 21-30; pg. 25, lines 19-21). It would have

been obvious to one of ordinary skill in the art at the time of the invention to combine Clarke's *Phleum pratense* gum composition into Glicksman's flour mixture composition because of improved functionalities and reduced-cost operation of making gluten-free food product.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HONG MEHTA whose telephone number is (571)270-7093. The examiner can normally be reached on Monday thru Thursday, from 7:30 am to 4:30 pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Htm

/Jennifer McNeil/
Supervisory Patent Examiner, Art Unit 1794